

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

EARL BATES, #43349

PETITIONER

VERSUS

CIVIL ACTION NO. 3:10-cv-465-DPJ-FKB

JOHNNIE DENMARK, Warden

RESPONDENT

CERTIFICATE OF APPEALABILITY

A final order adverse to the applicant having been filed in the captioned habeas corpus case, in which the detention complained of arises out of process issued by a state court, the Court, considering the record in the case and the requirements of 28 U.S.C. § 2253, Rule 22(b) of the Federal Rules of Appellate Procedure, and Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, hereby finds that:

A Certificate of Appealability should not issue. The applicant has failed to make a substantial showing of the denial of a constitutional right and has failed to demonstrate that this Court was incorrect in its procedural ruling. *See Hernandez v. Thaler*, 630 F.3d 420, 424 (5th Cir. 2011).

Date: April 18, 2011

s/ Daniel P. Jordan III

UNITED STATES DISTRICT JUDGE